

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THERABODY, INC., a Delaware corporation,

Plaintiff,

v.

TZUMI ELECTRONICS LLC, a New York
company, TZUMI INC., a New York
corporation, and DOES 1 THROUGH 10,

Defendants.

Civil Action No. 21-7803

JOINT DISPUTED CLAIM TERMS CHART

Pursuant to Local Patent Rule 11 and the Civil Case Management Plan and Scheduling Order, So-Ordered on May 5, 2022 (Dkt. # 51), Plaintiff Therabody, Inc. (“Therabody”) and Defendant Tzumi Electronics LLC (“Tzumi”) submit this Joint Disputed Claim Terms Chart with respect to the asserted claims of U.S. Patent Nos. 10,945,915 (the “’915 Patent”), 10,702,448 (the “’448 Patent”), 10,918,565 (the “’565 Patent”), 10,857,064 (the “’064 Patent”), 11,160,722 (the “’722 Patent”), 10,557,490 (the “’490 Patent”), 11,160,723 (the “’723 Patent”), D849,261 (the “’261 Patent”), D861,182 (the “’182 Patent”), D890,943 (the “’943 Patent”), D896,393 (the “’393 Patent”), D845,500 (the “’500 Patent”), D837,636 (the “’636 Patent”), and D918,404 (the “’404 Patent”).

The chart below identifies the claim terms identified for construction in this case, the proposed constructions, and the identification of the related paragraph(s) of the invalidity and/or infringement contention(s) disclosures.

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“handle portion”</p> <p>’448 Patent Claims: 1, 2, 3, 5, 6, 7, 15, 16</p> <p>’565 Patent Claims: 1, 2, 8, 9, 10, 11, 12, 14, 15, 16, 17</p> <p>’722 Patent Claims: 1, 3, 4, 5, 6, 9, 10, 11, 12, 13, 15, 17, 20</p> <p>’064 Patent Claims: 1, 3, 9, 10, 16, 18, 19</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody’s Infringement Contentions at Exhibit A ¶¶ 1.2, 6.1; Exhibit B ¶¶ 1.1, 16.2; Exhibit ¶¶ 1.1, 8.1; 9.1, 10.2, 14.2, 15.2, 16.1; Exhibit D ¶¶ 1.1, 6.1, 11.1, 17.1.</p> <p><i>See</i> Tzumi’s Invalidity Contentions at ¶¶ II(A), III(A), IV(A), V(A).</p>	<p>Proposed Construction: A section of the massage device sufficient for gripping and distinguished from a base member or transition between sections for gripping</p> <p>Therabody’s Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶¶ 1.2, 6.1; - Exhibit B ¶¶ 1.1, 16.2; - Exhibit C ¶¶ 1.1, 8.1; 9.1, 10.2, 14.2, 15.2, 16.1; - Exhibit D ¶¶ 1.1, 6.1, 11.1, 17.1. <p>Tzumi’s Initial Invalidity Contentions ¶¶ II(A), III(A), IV(A), V(A).</p>

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“handle portion is generally straight/handle portions are generally straight”</p> <p>'448 Patent Claims: 1, 6</p> <p>'565 Patent Claims: 1, 8, 9, 10, 14, 15, 16</p> <p>'722 Patent Claims: 3, 5, 9, 10, 12, 13, 15, 20</p> <p>'064 Patent Claims: 3, 10, 18, 19</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit A ¶¶ 1.8, 6.3; Exhibit B ¶¶ 3, 10, 18, 19; Exhibit C ¶¶ 1.3, 8.3, 9.3, 10.8, 14.8, 15.8, 16.5; Exhibit D ¶¶ 3, 5, 9, 10, 12, 13, 15, 20.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ II(A), II(B), III(A), III(B), IV(A), IV(B), V(A), V(B).</p>	<p>Proposed Construction: Over half of both the exterior edge and the interior edge of the handle portion must be straight</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶¶ 1.8, 6.3; - Exhibit B ¶¶ 3, 10, 18, 19; - Exhibit C ¶¶ 1.3, 8.3, 9.3, 10.8, 14.8, 15.8, 16.5; - Exhibit D ¶¶ 3, 5, 9, 10, 12, 13, 15, 20. <p>Tzumi's Initial Invalidity Contentions ¶¶ II(A), II(B), III(A), III(B), IV(A), IV(B), V(A), V(B).</p>

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“grasp, grasps, or grasping . . . handle portion(s)”</p> <p>'448 Patent Claims: 1, 2, 3, 5, 6, 7, 15</p> <p>'565 Patent Claims: 1, 2, 8, 9, 10, 11, 12, 14, 15, 16, 17</p> <p>'722 Patent Claims: 1, 4, 6, 11, 17, 20</p> <p>'064 Patent Claims: 1, 9, 16</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit A ¶¶ 1.10, 6.4; Exhibit B ¶¶ 1.3, 16.7; Exhibit C ¶¶ 1.3, 8.3, 9.3, 10.10, 14.8, 15.10, 16.3; Exhibit D ¶¶ 1.3, 6.3, 11.4, 17.4.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ II(A), III(A), IV(A), V(A).</p>	<p>Proposed Construction: All three handles must be of a length sufficient for a person with a large hand to firmly and comfortably grip each handle portion with at least three to four fingers extending through the opening</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶¶ 1.10, 6.4; - Exhibit B ¶¶ 1.3, 16.7; - Exhibit C ¶¶ 1.3, 8.3, 9.3, 10.10, 14.8, 15.10, 16.3; - Exhibit D ¶¶ 1.3, 6.3, 11.4, 17.4. <p>Tzumi's Initial Invalidity Contentions ¶¶ II(A), III(A), IV(A), V(A).</p>

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“handle portion interior edge”</p> <p>'448 Patent Claims: 2, 7</p> <p>'565 Patent Claims: 8, 14, 16</p> <p>'722 Patent Claims: 4, 17</p> <p>'064 Patent Claims: 9, 16</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit A ¶¶ 2, 7; Exhibit B ¶¶ 9, 16.7; Exhibit C ¶¶ 8.4, 14.8, 16.4; Exhibit D ¶¶ 4, 17.2.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ II(A), III(A), III(B), IV(A), IV(B), V(A), V(B).</p>	<p>Proposed Construction: A linear portion of the handle which faces the handle opening</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶¶ 2, 7; - Exhibit B ¶¶ 9, 16.7; - Exhibit C ¶¶ 8.4, 14.8, 16.4; - Exhibit D ¶¶ 4, 17.2. <p>Tzumi's Initial Invalidity Contentions ¶¶ II(A), III(A), III(B), IV(A), IV(B), V(A), V(B).</p>

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“axis [of a handle portion]”</p> <p>'448 Patent Claims: 1, 6</p> <p>'565 Patent Claims: 1, 8, 9, 10, 14, 15, 16</p> <p>'722 Patent Claims 1, 6</p> <p>'064 Patent Claims: 1, 16</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit A ¶¶ 1.7, 6.2; Exhibit B ¶¶ 1.2, 16.7; Exhibit C ¶¶ 1.2, 8.2, 9.2, 10.7, 14.7, 15.7, 16.2; Exhibit D ¶¶ 1.2, 6.2.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ II(A), II(B), III(A), III(B), IV(A), IV(B), V(A), V(B).</p>	<p>Proposed Construction: A straight line with respect to which the handle is symmetrical; alternatively indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶¶ 1.7, 6.2; - Exhibit B ¶¶ 1.2, 16.7; - Exhibit C ¶¶ 1.2, 8.2, 9.2, 10.7, 14.7, 15.7, 16.2; - Exhibit D ¶¶ 1.2, 6.2. <p>Tzumi's Initial Invalidity Contentions ¶¶ II(A), II(B), III(A), III(B), IV(A), IV(B), V(A), V(B).</p>
<p>“define a handle opening”</p> <p>'448 Patent Claims: 1, 2, 6, 7, 17, 18</p> <p>'064 Patent Claims: 1, 9, 16</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit A ¶¶ 1.2, 6.1; Exhibit B ¶¶ 1.1, 16.2.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ II(A), II(B), V(A), V(B).</p>	<p>Proposed Construction: Define the entire perimeter of a handle opening</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶¶ 1.2, 6.1; - Exhibit B ¶¶ 1.1, 16.2; <p>Tzumi's Initial Invalidity Contentions ¶¶ II(A), II(B), V(A), V(B).</p>

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“reciprocation axis defines a thickness reciprocation plane/reciprocation axis defines a width reciprocation plane”</p> <p>'915 Patent Claims: 1, 10, 11, 15</p> <p>'723 Patent Claims: 1, 5, 10, 12, 13</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit E ¶¶ 1.8, 11.8, 15.1; Exhibit F ¶¶ 1.7, 10.11, 12; Exhibit H ¶¶ 1.8, 11.8, 15.1; Exhibit I ¶¶ 1.7, 10.11, 12.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ VI(A), VI(B), VII(A), VII(B).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit E ¶¶ 1.8, 11.8, 15.1; - Exhibit F ¶¶ 1.7, 10.11, 12; - Exhibit H ¶¶ 1.8, 11.8, 15.1; - Exhibit I ¶¶ 1.7, 10.11, 12. <p>Tzumi's Initial Invalidity Contentions ¶¶ VI(A), VI(B), VII(A), VII(B).</p>
<p>“front portion/back portion”</p> <p>'915 Patent Claims: 10</p> <p>'723 Patent Claims: 5, 10, 11, 13</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit E ¶ 10; Exhibit F ¶¶ 5, 10.2; Exhibit H ¶ 10; Exhibit I ¶¶ 5, 10.2.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ VI(A), VI(B), VII(A), VII(B).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit E ¶ 10; - Exhibit F ¶¶ 5, 10.2; - Exhibit H ¶ 10; - Exhibit I ¶¶ 5, 10.2. <p>Tzumi's Initial Invalidity Contentions ¶¶ VI(A), VI(B), VII(A), VII(B).</p>

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<p>“thickness”</p> <p>'915 Patent Claims: 1, 10, 11, 15</p> <p>'723 Patent Claims: 1, 2, 5, 10, 12, 13</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit E ¶¶ 1.2, 11.2, 15.1; Exhibit F ¶¶ 1.2, 10.2, 12; Exhibit H ¶¶ 1.2, 11.2, 15.1; Exhibit I ¶¶ 1.2, 10.2, 12.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ VI(A), VI(B), VII(A), VII(B).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit E ¶¶ 1.2, 11.2, 15.1; - Exhibit F ¶¶ 1.2, 10.2, 12; - Exhibit H ¶¶ 1.2, 11.2, 15.1; - Exhibit I ¶¶ 1.2, 10.2, 12. <p>Tzumi's Initial Invalidity Contentions ¶¶ VI(A), VI(B), VII(A), VII(B).</p>
<p>“height”</p> <p>'915 Patent Claims: 1, 11</p> <p>'723 Patent Claims: 1, 10, 12</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit E ¶¶ 1.2, 11.2; Exhibit F ¶¶ 1.2, 10.2, 12; Exhibit H ¶¶ 1.2, 11.2; Exhibit I ¶¶ 1.2, 10.2, 12.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ VI(A), VI(B), VII(A), VII(B).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit E ¶¶ 1.2, 11.2; - Exhibit F ¶¶ 1.2, 10.2, 12; - Exhibit H ¶¶ 1.2, 11.2; - Exhibit I ¶¶ 1.2, 10.2, 12. <p>Tzumi's Initial Invalidity Contentions ¶¶ VI(A), VI(B), VII(A), VII(B).</p>

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<p>“width”</p> <p>'915 Patent Claims: 1, 10, 11</p> <p>'723 Patent Claims: 1, 5, 10, 12, 13</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit E ¶¶ 1.2, 11.2; Exhibit F ¶¶ 1.2, 10.2, 12; Exhibit H ¶¶ 1.2, 11.2; Exhibit I ¶¶ 1.2, 10.2, 12.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ VI(A), VI(B), VII(A), VII(B).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit E ¶¶ 1.2, 11.2; - Exhibit F ¶¶ 1.2, 10.2, 12; - Exhibit H ¶¶ 1.2, 11.2; - Exhibit I ¶¶ 1.2, 10.2, 12. <p>Tzumi's Initial Invalidity Contentions ¶¶ VI(A), VI(B), VII(A), VII(B).</p>
<p>“side”</p> <p>'915 Patent Claims: 1, 3, 4, 11, 12, 15</p> <p>'723 Patent Claims: 1, 2, 6, 7, 10, 12</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit E ¶¶ 1.8, 11.8, 15.1; Exhibit F ¶¶ 1.7, 10.11, 12; Exhibit H ¶¶ 1.8, 11.8, 15.1; Exhibit I ¶¶ 1.7, 10.11, 12.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ VI(A), VI(B), VII(A), VII(B).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit E ¶¶ 1.8, 11.8, 15.1; - Exhibit F ¶¶ 1.7, 10.11, 12; - Exhibit H ¶¶ 1.8, 11.8, 15.1; - Exhibit I ¶¶ 1.7, 10.11, 12. <p>Tzumi's Initial Invalidity Contentions ¶¶ VI(A), VI(B), VII(A), VII(B).</p>

Claim Term	Therabody's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures	Tzumi's Proposed Construction and Identification of the Related Paragraph(s) of the Invalidity and/or Infringement Contention(s) Disclosures
<p>“transverse/transversely”</p> <p>'448 Patent Claims: 18</p> <p>'565 Patent Claims: 4</p> <p>'064 Patent Claims: 21</p> <p>'915 Patent Claims: 1, 11, 15</p> <p>'723 Patent Claims: 1, 10, 12</p>	<p>Proposed Construction: plain and ordinary meaning</p> <p><i>See</i> Therabody's Infringement Contentions at Exhibit A ¶ 18; Exhibit B ¶ 21; Exhibit C ¶ 4; Exhibit E ¶¶ 1.8, 11.8, 15.1; Exhibit F ¶¶ 1.7, 10.11, 12; Exhibit H ¶¶ 1.8, 11.8, 15.1; Exhibit I ¶¶ 1.7, 10.11, 12.</p> <p><i>See</i> Tzumi's Invalidity Contentions at ¶¶ II(A), II(B), III(A), III(B), V(A), V(B), VI(A), VII(A).</p>	<p>Proposed Construction: indefinite and invalid</p> <p>Therabody's Infringement Contention Paragraphs:</p> <ul style="list-style-type: none"> - Exhibit A ¶ 18; - Exhibit B ¶ 21; - Exhibit C ¶ 4; - Exhibit E ¶¶ 1.8, 11.8, 15.1; - Exhibit F ¶¶ 1.7, 10.11, 12; - Exhibit H ¶¶ 1.8, 11.8, 15.1; - Exhibit I ¶¶ 1.7, 10.11, 12. <p>Tzumi's Initial Invalidity Contentions ¶¶ II(A), II(B), III(A), III(B), V(A), V(B), VI(A), VII(A).</p>

Claims of Design Patents	Proposed Construction: each design patent should be interpreted according to its plain and ordinary meaning	Proposed Construction:
D849,261 (the “’261 Patent”)		The ’636 Patent: the ornamental design for a connector limited to the solid lines of Figures 1–5;
D861,182 (the “’182 Patent”)		
D890,943 (the “’943 Patent”)		
D896,393 (the “’393 Patent”)	<i>See</i> Therabody’s Infringement Contentions at Exhibit J, Exhibit K, Exhibit L, Exhibit M, Exhibit N, Exhibit O, Exhibit P.	The ’500 Patent: the ornamental design for a massage element limited to the solid lines of Figures 1–11;
D845,500 (the “’500 Patent”)		
D837,636 (the “’636 Patent”)		
D918,404 (the “’404 Patent”)	<i>See</i> Tzumi’s Invalidity Contentions at ¶¶ IX(A), X(A), XI(A), XII(A), XIII(A), XIV (A), XV(A).	The ’261 Patent: the ornamental design for a massage element limited to the solid lines of Figures 1–5; The ’182 Patent: the ornamental design for a massage element limited to the solid lines of Figures 1–4; The ’943 Patent: the ornamental design for a massage element limited to the solid lines of Figures 1–5; The ’393 Patent: the ornamental design for a massage element limited to the solid lines of Figures 1–5; The ’404 Patent: the ornamental design for a massage element limited to the solid lines of Figures 1–6; Therabody’s Infringement

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		<p>Contention Paragraphs: All the paragraphs in Exhibit J, Exhibit K, Exhibit L, Exhibit M, Exhibit N, Exhibit O, Exhibit P.</p> <p>Tzumi's Initial Invalidity Contentions ¶¶ IX(A), X(A), XI(A), XII(A), XIII(A), XIV (A), XV(A).</p>

DATED: November 2, 2022

Respectfully submitted,

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